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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

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DOCKETED

FEB -1 2008

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
GRINGO PASS, INC. FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
PROVIDE CUSTOMER-OWNED PAY  
TELEPHONE SERVICES.

DOCKET NO. T-04191A-03-0482

PROCEDURAL ORDER

**BY THE COMMISSION:**

On July 14, 2003, Gringo Pass, Inc. ("GPI") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide customer-owned pay telephone ("COPT") services in the State of Arizona.

On July 17, 2003, the Commission's Utilities Division Staff ("Staff") filed a Letter of Insufficiency and First Set of Data Requests.

On December 20, 2005, a Procedural Order was issued in this matter indicating that no filing had been made since Staff's data request and requiring Staff, no later than January 20, 2006, to make a filing updating the Commission on the status of the matter and indicating whether the matter should be administratively closed.

On January 20, 2006, Staff filed a Status Report stating that, after Staff contacted GPI by telephone and faxed GPI the First Set of Data Requests on December 23, 2005, GPI filed its response to Staff's First Set of Data Requests on January 5, 2006. Staff recommended that the docket remain open pending Staff's review of GPI's response and until all issues associated with this matter are resolved. GPI's response was apparently not filed with Docket Control.

On March 9, 2006, Staff filed a Memorandum recommending that GPI's CC&N application be approved.

On March 20, 2006, a Recommended Order was filed by the Hearing Division, for consideration at the April 2006 Open Meeting.

1 On March 30, 2006, a letter from GPI's President, A.E. Gay, was filed. In the letter, Mr. Gay  
2 requested a 90-day postponement of GPI's application as the principal was unable to attend the  
3 meeting due to an injury.

4 On March 31, 2006, a fax from "Barry Thompson for A.E. Gay" was filed, indicating Mr.  
5 Thompson's understanding that GPI's matter would be put on "hold" until Mr. Gay requested for the  
6 docket to be reactivated.

7 On April 12, 2006, A.E. Gay filed a letter stating that Mr. Gay and his wife had intended for  
8 ABC Gringo, Inc. to obtain the CC&N.

9 On November 7, 2007, by Procedural Order, Staff and GPI were each required to file, by  
10 November 19, 2007, a document updating the status of GPI's application for a CC&N to provide  
11 COPT services and indicating when the Recommended Order filed on March 20, 2006, should be  
12 scheduled for consideration at an open meeting or, if either believed that the Recommended Order  
13 should not be scheduled for consideration at an open meeting, explaining why and providing a  
14 recommendation as to what action should be taken to resolve the matter.

15 On November 16, 2007, A.E. Gay, for GPI, filed a letter stating that Mr. Gay desires for the  
16 CC&N application to remain in the name GPI, rather than ABC Gringo, Inc. In addition, Mr. Gay  
17 stated that he would like to keep the application on hold until such time as he can handle it, as the  
18 service is needed in Lukeville, Arizona.

19 On November 21, 2007, Staff filed an Update stating that Staff had contacted Mr. Gay on  
20 November 8, 2007, "to confirm his desire to reactivate his CC&N application using the name ABC  
21 Gringo, Inc. in place of Gringo Pass, Inc.," and that Mr. Gay wants ABC Gringo, Inc., to obtain the  
22 CC&N for COPT services. In addition, Staff stated that the Recommended Order filed on March 20,  
23 2006, should not be scheduled for consideration at an open meeting at this time. Staff recommended  
24 that the applicant (apparently meaning Mr. Gay) be required to file an amended and updated  
25 application with the appropriate business entity as the applicant or, in the alternative, file a new  
26 application and request that the pending application be withdrawn.

27 On December 7, 2007, a Procedural Order was issued in this matter scheduling a telephonic  
28 procedural conference for December 13, 2007.

1 On December 13, 2007, a telephonic procedural conference was held in this matter before a  
2 duly authorized Administrative Law Judge of the Commission. Mr. Gay appeared on behalf of GPI,  
3 and Staff appeared through counsel. During the procedural conference, Mr. Gay indicated a strong  
4 desire for GPI's application to move forward as soon as possible so that GPI can provide COPT  
5 services. Counsel for Staff indicated that Staff desired to obtain updated information through another  
6 set of data requests to GPI; that Staff was ready to issue the data requests on December 13, 2007; and  
7 that Staff would initially obtain GPI's responses from Mr. Gay telephonically, with hard copy of the  
8 data requests also to be sent to GPI. Staff agreed to memorialize GPI's verbal responses and to file  
9 them with Docket Control. Mr. Gay agreed to this and also agreed to file written responses to Staff's  
10 data requests with Docket Control.

11 Also on December 13, 2007, a Procedural Order was issued requiring Staff to mail to GPI and  
12 file a set of data requests by December 20, 2007; requiring Staff to file by December 20, 2007, a  
13 document memorializing Mr. Gay's verbal responses to Staff's data requests; requiring GPI to file by  
14 January 2, 2008, written responses to Staff's data requests; and requiring Staff to file by January 16,  
15 2008, an updated Staff Report in this matter.

16 On December 13, 2007, Staff filed a Letter of Insufficiency and Second Set of Data Requests.

17 On December 20, 2007, Staff filed a document memorializing Ms. Annie Vejar's verbal  
18 responses to Staff's Second Set of Data Requests, along with a faxed copy of the memorialized  
19 responses that had been signed by Mr. Gay and Ms. Vejar indicating that the responses represented  
20 their replies to the Data Requests. According to the responses, Mr. Gay had requested that Staff  
21 allow Ms. Vejar, his secretary, to respond to the questions.

22 On December 21, 2007, Staff filed a Letter of Insufficiency and Third Set of Data Requests.

23 On January 3, 2008, GPI filed responses to Staff's Third Set of Data Requests.

24 On January 16, 2008, Staff filed an Updated Staff Report, recommending that GPI's  
25 application be denied based on information obtained from Mr. Gay, Table Top Telephone Company,  
26 Inc., and Pacific Communications, LLC that causes Staff to believe that GPI's customer information  
27 placard does not reflect current and accurate conditions of the application. Staff suggested that, if  
28 Mr. Gay desires to obtain a CC&N to provide COPT services, he should contact the local exchange

1 carrier to apply for or obtain an access line to be a COPT provider, provide an updated customer  
2 information placard, and file a new COPT application in the name of the appropriate business entity.

3       On January 31, 2008, the Hearing Division received a document from GPI that appears to be a  
4 response to a data request for JFB3-1. As the document was apparently not sent to Docket Control,  
5 the Hearing Division docketed the document. The document indicates that GPI desires to obtain a  
6 CC&N for COPT services per its original application and, among other things, that GPI has been  
7 advised by AT&T, Table Top Telephone Co., and others that obtaining the CC&N is the first step.  
8 As the latest document appears to be a response to a data request, it is not clear whether it is intended  
9 to be GPI's response to the Updated Staff Report. It would be helpful for the Commission to receive  
10 an express response to the Updated Staff Report from GPI before taking action in this matter. In  
11 addition, it would be helpful for the Commission to receive Staff's response to GPI's response for  
12 JFB3-1 and GPI's response to the Updated Staff Report.

13       IT IS THEREFORE ORDERED that GPI shall file a response to the Updated Staff Report by  
14 **February 14, 2008**, responding to Staff's statements therein and indicating whether GPI desires to  
15 withdraw its application, to have a hearing on its application, or to allow the Commission to make a  
16 decision on its application without a hearing.

17       IT IS FURTHER ORDERED that Staff shall file a response to GPI's response for JFB3-1 and  
18 to GPI's response to the Updated Staff Report **by February 26, 2008**, including any changes in  
19 Staff's recommendations as expressed in the Updated Staff Report.

20       IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
21 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
22 *pro hac vice*.

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1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 1st day of February, 2008.


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6   
7 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
9 this 1st day of February, 2008, to:

10 A. E. Gay  
GRINGO PASS, INC.  
11 P.O. Box 266  
Lukeville, AZ 85341

12 Christopher Kempley, Chief Counsel  
Legal Division  
13 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
14 Phoenix, AZ 85007

15 Ernest G. Johnson, Director  
Utilities Division  
16 ARIZONA CORPORATION COMMISSION  
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18  
19 By:   
20 Debra Broyles  
Secretary to Sarah N. Harpring